

**WORLDCOM**

**ORIGINAL**

**ORIGINAL**

**Keith L. Seat**  
Senior Counsel  
Federal Law and Public Policy

1801 Pennsylvania Avenue, NW  
Washington, DC 20006  
202 887 2993  
Fax 202 887 3175

January 3, 2001

**RECEIVED**

**JAN - 3 2001**

By Hand Delivery

Ms. Magalie Roman Salas  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

**EX PARTE OR LATE FILED**

**FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY**

Re: EX PARTE -- CC Docket No. 00-217: Joint Application of SBC  
Communications, Inc. Pursuant to Section 271 of the Telecommunications  
Act of 1996 to Provide InterLATA Services in Kansas and Oklahoma

Dear Ms. Salas:

On behalf of WorldCom, Inc., this letter responds to a number of misleading or inaccurate assertions in Southwestern Bell's ("SWBT") reply brief. WorldCom's analysis shows that SWBT has not complied with section 271, which explains the absence of local residential competition in Kansas and Oklahoma. In addition to the issues of operations support systems ("OSS"), line splitting, and Track A discussed below, SWBT has also made entirely new (but still invalid) arguments on pricing issues in its reply brief, and has revised its pricing arguments three more times in recent ex parte letters. By continually submitting new "bids" in a transparent effort to find the highest tolerable unbundled network element ("UNE") prices, SWBT seeks to make a mockery of the section 271 process in flagrant violation of the Commission's requirement that applications be complete when filed. Every argument and pricing proposal SWBT now presents was fully available to it at the time it filed its application, but SWBT chose not to include them.

The FCC must determine if the pricing of UNEs is at TELRIC levels that permit competitive entry. There is no evidence to support that proposition in this record. As WorldCom will demonstrate in its January 8 comments, even if the Commission considers SWBT's last minute changes, the UNE rates in Oklahoma and non-recurring charges in Kansas are still not cost-based and continue to be a barrier to competitive entry.

The remainder of this letter addresses SWBT's reply arguments on OSS, line splitting, and Track A.

No. of Copies rec'd \_\_\_\_\_  
List ABCDE \_\_\_\_\_

2 + 1

## I. OSS ISSUES

### Overview

**SWBT Statement:** “*As long as the BOC can demonstrate that the reason competing carriers are not currently using a particular OSS function is because of the competing carriers’ business decisions, rather than lack of practical availability of the necessary OSS functions, the Commission may consider other evidence of commercial readiness.*” *Ham Reply Aff.* ¶ 42 (quoting Michigan Order ¶ 138).

**WorldCom Response:** SWBT’s reasoning is fundamentally flawed because it assumes CLECs’ “business decisions” not to enter the Kansas and Oklahoma markets are not based on the substantial barriers to entry SWBT has erected. The reason entry and use of SWBT’s OSS in Kansas and Oklahoma is so limited is the result of SWBT’s excessive prices and market conditions outside of CLECs’ control. SWBT cannot shield its OSS from scrutiny by taking anticompetitive actions that prevent CLECs from using SWBT’s OSS. SWBT has not shown, and cannot show, that the Kansas and Oklahoma markets are fully and irreversibly open to competition.

Moreover, even if SWBT could rely entirely on evidence other than commercial use to show operational readiness, it has not provided the requisite state-specific evidence. Instead, SWBT continues to rely almost entirely on its experience in Texas. This evidence is insufficient in light of differences between SWBT’s OSS in Texas and Kansas and Oklahoma. Moreover, WorldCom and other CLECs have experienced a number of important problems with SWBT’s OSS in Texas – problems that are likely to grow worse if CLECs begin submitting commercial volumes of orders in additional states. See generally McMillon & Lichtenberg Decl. The fact that SWBT was recently fined \$ 6.1 million for poor region-wide performance (see “SBC Pays Fine for Not Sharing Phone Network,” Washington Post (Dec. 22, 2000)) heightens the concern with SWBT’s ability to handle increasing volumes of orders outside of Texas.

It is also significant to note that on December 20, 2000, the Commission fined SWBT for using incorrect benchmarks and excluding key data in monthly reports for a period of up to 13 months, beginning on November 1, 1999. In re: SBC Communications, Inc., Notice of Apparent Liability for Forfeiture (DA 00-2858, rel. Dec. 20, 2000). Without accurate performance data, there is no way to trust SWBT’s performance data for Texas or any other state in its region.

**SWBT Statement:** “*As a result of the recommendation in the Department of Justice’s evaluation, this affidavit contains additional evidence as to the region-wide nature of its OSS.*” *Ham Reply Aff.* ¶ 34.

**WorldCom Response:** DOJ found that: (1) it was unclear what SWBT meant in stating that it used the “same” OSS from state to state; (2) there was no evidence that personnel involved in provisioning, maintenance and repair, and managing of relationships with CLECs do their jobs in the same manner in Kansas and Oklahoma as in Texas; (3) CLECs might have to engage in additional development work to construct EDI interfaces outside of Texas as a result of different product offerings and other differences; (4) use of different SORD processors might lead to

different results in processing of orders in Kansas and Oklahoma than in Texas; and (5) poorly trained service representatives were causing problems in Texas and potentially could cause problems elsewhere. DOJ Eval. at 28-36.

SWBT's reply comments do not eliminate any of these concerns. SWBT continues to claim its OSS is the same across the region but now acknowledges that product offerings vary from state to state and that SORD processors differ. SWBT fails to provide any evidence that state-specific personnel involved in provisioning and maintenance and repair will perform in the same manner in Kansas and Oklahoma as those in Texas. SWBT fails to show that product and regulatory differences have no effect on a CLECs' construction of an EDI interface, because it is clear that such differences do require programming changes. SWBT provides no evidence, beyond repeating the assertion it made in its original filing, that different SORD processors work identically for wholesale orders, as opposed to retail orders. And SWBT does not show that it will avoid in Kansas and Oklahoma the problems that arose in Texas as a result of the inability of SWBT representatives to handle increasing volumes of orders. These issues are discussed in more detail below.

**SWBT Statement:** *Excluding orders placed by only three CLECs in Texas, "the number of UNE-P service orders generated in all five states of SWBT's region [in October, 2000] would total 950."* *Ham Reply Aff.* ¶ 42 n.35.

**WorldCom Response:** SWBT's statement merely emphasizes how little experience it has with UNE-P orders in Kansas and Oklahoma. With the exception of orders placed by three carriers in Texas, SWBT processed only 950 UNE-P orders throughout its region in October (including orders placed by other CLECs in Texas). Moreover, SWBT does not say how many of these 950 orders – if any – were placed via EDI.

**SWBT Statement:** *"No CLEC has ever complained that service orders created for its end user in Texas are different than service orders created for its end user in Kansas or Oklahoma. Clearly, these complaints were not raised because these matters are not an issue in SWBT's region."* *Ham Reply Aff.* ¶ 28.

**WorldCom Response:** As a result of excessive prices in Oklahoma and Kansas, CLECs are not submitting UNE-P orders in any volumes in those states. Thus, CLECs do not have the experience to evaluate all of the differences in OSS in SWBT's region – especially with respect to UNE-P. That is why a third-party test is needed.

**SWBT Statement:** *The Kansas and Oklahoma commissions concluded that SWBT's systems were the same across the region.* *Ham Reply Aff.* ¶ 31.

**WorldCom Response:** The Kansas and Oklahoma commissions relied entirely on SWBT's assertions in concluding that SWBT's OSS was the same throughout the region. They did not conduct any independent examination of that OSS. Indeed, with the exception of one reference by the Oklahoma Corporation Commission ("OCC") to the different SORD processors in different states, the commissions did not even discuss the known differences in OSS from state to

state, which include the product and regulatory differences, different SORD processors, and different provisioning personnel.

**SWBT Statement:** *"Ernst & Young filed an attestation that concluded SWBT's assertion that it utilized the same OSS throughout its five-state operating region is fairly stated in all material respects."* Ham Reply Aff. ¶ 32.

**WorldCom Response:** The Ernst & Young report is a wholly inadequate basis from which to conclude that SWBT's OSS is ready. Ernst & Young largely relied on an evaluation of SWBT's documentation rather than a test of SWBT's systems, and provided almost no details regarding that testing. Ernst & Young did not examine SWBT's OSS for billing or maintenance and repair, or even for some ordering systems. Ernst & Young did not meet any of the Commission's standards for an adequate third-party test, such as the need for independence, CLEC participation in design of the test, and blindness to the tested party.

**SWBT Statement:** *"In 1984, among the seven BOCs created by divestiture, SWBT was the only Baby Bell to survive intact as a regional BOC, which still continued to provide local telephone service in its entire five-state operating region using a single set of retail systems in all its states."* Ham Reply Aff. ¶ 22.

**WorldCom Response:** As WorldCom has acknowledged previously, SWBT's back-end systems are likely more similar from state to state than are the systems of other BOCs. McMillon & Lichtenberg Decl. ¶¶ 17-25. As a result, third-party testing for Kansas and Oklahoma could be somewhat less extensive than is necessary in other states. But there must be a third-party test or significant commercial experience in Kansas and Oklahoma. The fact that SWBT's OSS was the product of a single set of legacy systems does not mean it is currently identical from state to state. Indeed, as discussed above and in the McMillon & Lichtenberg Declaration, it is apparent that it is not identical.

### **Product and Regulatory Differences**

**SWBT Statement:** *"LSR fields and format are industry standardized and universal service order codes ('USOCs') and field identifiers ('FIDs') (for the most part) are identical throughout SWBT's regional OSS."* Ham Reply Aff. ¶ 4.

**WorldCom Response:** By stating that USOCs and FIDs are "for the most part" identical throughout its region, SWBT acknowledges that there is some variance in USOCs and FIDs. Moreover, the fact that LSR fields and format are industry standardized does not mean there is no variance among them. As SWBT well knows, industry standards allow for some degree of variance in fields and format.

**SWBT Statement:** *"Further confirmation that SWBT provides one and only one set of interfaces to CLECs can be found in the fact that SWBT provides only one set of requirements for its entire five-state operating region."* Ham Reply Aff. ¶ 8.

**WorldCom Response:** Providing one set of OSS requirements does not show that OSS is identical in each state. First, even if the documentation is the same, it does not mean there are no differences in practice. For example, in Pennsylvania Verizon failed to populate the “state” field when returning pre-order information even though it populated this field in New York and the business rules were identical in Pennsylvania and New York. WorldCom Reply Comments at 27. Second, as SWBT acknowledges, there are product and regulatory differences from state to state. These differences require programming changes on the CLECs’ side of the interface – and also presumably on SWBT’s side even when the business rules and EDI formatting are the same. *Id.* at 24. A CLEC must make programming edits into its interface to ensure that the USOCs and FIDs it has used are correct. It also must program edits to ensure that it has met all the rules regarding dependencies of products – such as a rule that a customer can only order anonymous call blocking if the customer also orders caller ID with name. *Id.* Third, SWBT also acknowledges that there are differences in the rating tables used for billing as a result of differences in tariffs and interconnection agreements from state to state. McLaughlin Reply Aff. ¶¶ 4-6. If SWBT does not program its tables correctly based on differing data, bills will be erroneous.

**SWBT Statement:** “[A] CLEC is not required to build an EDI interface for each state of SWBT’s operating region . . . . Once a CLEC has constructed its side of the EDI gateway, it can be used to submit local service requests (‘LSRs’) for end users in any or all state(s) in SWBT’s operating region. In fact, several CLECs are currently in production ordering service via either EDI or LEX in multiple states within SWBT’s region. SWBT’s side of the EDI gateway consists of a single system that receives LSR transmissions from CLECs for end users in any and all of SWBT’s five states.” *Ham Reply Aff.* ¶ 9.

**WorldCom Response:** It is not the case that a CLEC can simply use an EDI interface constructed for Texas and begin submitting orders in Kansas or Oklahoma. A CLEC must determine which USOCs and FIDs are used to order products in those states and construct edits in its systems to ensure that the correct USOCs and FIDs are used and that there are no dependencies that preclude placement of a particular order. Moreover, SWBT must have properly designed its side of the interface to accept the different USOCs and FIDs and to account for the dependencies between various products.

As for SWBT’s claim that several CLECs are currently submitting production orders in multiple states, this may be true for resale but is almost certainly not true for UNE-P – at least in any volumes. SWBT has received very few UNE-P orders in Kansas or Oklahoma and provides no data showing receipt of UNE-P orders via EDI. Moreover, even with respect to resale, SWBT does not present a comparison of the results of orders in the different states to show that when identical orders are placed from different states, they are processed identically.

**SWBT Statement:** “Attachment K (Proprietary) demonstrates that UNE-P service in Texas is ordered in the same manner as UNE-P service in Oklahoma, regardless of whether the ordering interface is LEX or EDI.” *Ham Reply Aff.* ¶ 43.

**WorldCom Response:** SWBT provides an example of two similar UNE-P orders submitted via EDI in both Oklahoma and Texas (but not Kansas). It does not even show that these orders were

processed identically in the back-end, let alone that a wide variety of UNE-P orders could be submitted successfully, without alteration, in the two states. Indeed, SWBT has acknowledged that there are product and regulatory differences among the states. Thus, many UNE-P orders will not be identical in the different states.

**SWBT Statement:** *“While it is true that as a result of state tariffs not always within SWBT’s control, product differences do occur, there is still only one, industry standard LSR. WorldCom accurately claims that the LSR may require different values to be populated depending on the origin of the service request. McMillon & Lichtenberg Declaration ¶ 20. For example, an LSR for an end user in Topeka, Kansas would require a different area code or NPA than an LSR for an end user in Dallas, Texas.” Ham Reply Aff. ¶ 12.*

**WorldCom Response:** The need to populate different values as a result of product and regulatory differences requires significant variation in programming from state to state. SWBT’s attempt to belittle the differences by noting that CLECs must input different area codes is entirely misleading. Variations in area codes, unlike product and regulatory differences, do not require programming changes on either the CLECs’ end or on SWBT’s end.

**SWBT Statement:** *“[C]orrect population of SWBT’s industry standard LSR includes populating the correct data for area codes, addresses, and various tariffed services; these may be different not only across state lines, but also in different areas within the same state.” Ham Reply Aff. ¶ 13.*

**WorldCom Response:** While area codes and addresses may vary from area to area, this is not analogous to product and regulatory differences because this variation does not require variation in programming. With respect to tariffed services, it is true that these may vary within states as well as between states. That is one reason it is important that a BOC present data from different areas in a state to show its OSS is ready, not just data from a single area within a state. But there are likely to be far greater product differences between states than within states in part as a result of regulatory differences between states. Thus, when a BOC claims its OSS is ready in a new state, it is critical that it have state-specific evidence to support this claim.

**SWBT Statement:** *“[C]ertain product availability depends upon the type of switch serving the end user’s location. These product differences occur within cities and within states.” Ham Reply Aff. ¶ 17.*

**WorldCom Response:** While some products vary from state to state, others vary from switch to switch. This does not show the absence of differences between states, however. To the contrary, because certain switch types may be concentrated in particular states, the variance in product availability in different switches may translate into an additional source of OSS differences between states. In order for CLECs to properly account for differences caused by differing switch types, CLECs require an accurate list of switches and the features available at each switch, but there has been no independent verification that SWBT provides a complete and accurate list.

**SWBT Statement:** *“Contrary to WorldCom’s unsupported allegation, SWBT has a single set of USOCs in use across its five-state region. . . . However, state-specific USOCs or*

*FIDs may arise as a result of regulatory differences. For example, "CREXN" indicates 900/976 toll restriction in Texas only, whereas "CREXK" indicates 900 toll restriction in Missouri, Oklahoma, Kansas, and Arkansas ("MOKA").* Ham Reply Aff. ¶ 14.

**WorldCom Response:** WorldCom did not claim that SWBT has multiple sets of USOCs but rather that USOCs and FIDs vary as a result of product and regulatory differences. SWBT's example of 900/976 blocking confirms this. Before beginning operations in the SWBT region outside of Texas, a CLEC that already has working interfaces in Texas must build into its interfaces edits that enable it to order 900 blocking in Missouri, Oklahoma, Kansas and Arkansas and prevent it from placing orders for 900/976 blocking in those states.

**SWBT Statement:** *"WorldCom notes that in Kansas and Oklahoma SWBT offers a product that enables customers to prevent their accounts from being migrated unless they personally call their existing carrier. . . . Thus, if a CLEC's end user residing in Kansas or Oklahoma requests this feature, the CLEC's service representative populates the RSCP FID (like populating a FID for any other product on the LSR) and follows the instructions. . . . [F]or an end user in Texas a CLEC service representative will never be required to remove and cannot offer this product."* Ham Reply Aff. ¶ 18.

**WorldCom Response:** If a CLEC enters the market in Kansas or Oklahoma after having been in the market in Texas, it must program its interfaces to enable end users to order products, such as the one discussed by SWBT, that do not exist in Texas. Moreover, it must create edits to ensure that its customer service representatives do not offer such products to end users in Texas – or, if they do so mistakenly, that any such orders are not transmitted to SWBT.

The particular product in question requires still more work from CLECs in Kansas and Oklahoma. Because customers who have ordered this product from SWBT cannot migrate away from SWBT until they call personally, SWBT will reject CLEC orders to migrate such customers unless they call SWBT first. Thus, prior to placing an order in Kansas and Oklahoma, CLECs must determine whether a customer has ordered this particular product and, if so, must work with the customer to ensure that the customer calls SWBT before the CLEC transmits the migration order. Without significant experience and/or testing, there is no way to be sure how this process will work or if it works. Moreover, there is the additional risk that SWBT will attempt to win back customers when they call to state that they intend to migrate to a CLEC.

#### **Different SORD Processors**

**SWBT Statement:** *"The SORD and EASE processors located in the St. Louis data center serve SWBT's retail and wholesale customers in Missouri, Oklahoma, Kansas, and Arkansas. The processors (located in Dallas and St. Louis) for the regional SORD and EASE systems are the same type of hardware running identical software."* Ham Reply Aff. ¶ 24.

**WorldCom Response:** SWBT confirms that different SORD and EASE processors are used for MOKA orders and for Texas orders. Without significant experience or a third-party test, there is no way to know whether the processors in Dallas and St. Louis operate identically and whether the software has been updated simultaneously. McMillon & Lichtenberg Decl. ¶ 21. The fact

that the processors work identically for retail orders does not mean they work identically for wholesale orders.

**SWBT Statement:** *"The DOJ concluded that the 'service order processor in Dallas has been significantly utilized while the processor in St. Louis. . . has not.'" DOJ Evaluation at 35. Contrary to the DOJ's conclusion, the SORD and EASE processors in St. Louis (on which the Kansas and Oklahoma CLECs rely) have long been utilized processing service orders for SWBT's substantial four-state retail operations. Furthermore, both Telcordia and Ernst & Young validated that SWBT's SORD system was scalable and could process reasonable foreseeable volumes."* Ham Reply Aff. ¶ 25.

**WorldCom Response:** SWBT's retail experience with the SORD processor in St. Louis does not show that the processor will correctly handle CLEC orders, much less that it can handle a rapid increase in the volume of those orders. That processor has not been the subject of a real third-party test. It was not evaluated by Telcordia, and Ernst & Young provides far too limited an explanation of its methodology to produce a reliable conclusion.

#### **Different Personnel**

**SWBT Statement:** *SWBT states that the procedures it uses for provisioning and maintenance and repair are identical from state to state and that the personnel at the top of its organizational hierarchy are centralized for the region. See generally Mah Reply Aff.*

**WorldCom Response:** The personnel who perform the actual field work to provision orders and repair customer lines differ from state to state – as do their managers. The fact that they are governed by the same written procedures and report to the same personnel at the top of the organizational hierarchy does not mean that they implement the procedures in identical fashion. Indeed, the personnel in different states likely receive somewhat different training. SWBT has 21 different training sites with different trainers. Mah Reply Aff. ¶ 14. While personnel may, in theory, be able to receive training at any of the training sites, it is likely that in practice most personnel are trained near the location of their work, producing state specific differences in the training they receive. In addition, as SWBT notes, there are state-specific requirements and regulations that affect provisioning, variations in customer preferences between states, and different network topologies in different states. *Id.* ¶¶ 33-35. As a result of these differences, procedures and training that produce effective performance in one state might not produce effective performance in another state – even if the personnel were identical from state to state. Without significant commercial experience or an evaluation of performance by an objective third party, there is no basis on which to conclude that SWBT personnel are able to provision orders effectively and maintain and repair customer lines in Kansas or Oklahoma.

#### **Jeopardy Notifications**

**SWBT Statement:** *"WorldCom did not provide supporting documentation for the total number of jeopardies referenced in its comments."* Noland Reply Aff. ¶ 27.



**WorldCom Response:** WorldCom detailed the number of jeopardies it has received, the number in different categories, and how late SWBT was in returning these jeopardies. McMillon & Lichtenberg Decl. ¶¶ 27-44; WorldCom Reply Comments at 32. SWBT does not dispute any of WorldCom's data nor provide any data of its own with respect to WorldCom orders.

**SWBT Statement:** “[D]uring August, WorldCom submitted many ‘duplicate’ orders – i.e., two orders for the exact same service to the exact same customer. When the duplicate order was received, the LSC sent a jeopardy notice to WorldCom requesting that it ‘please send supplemental order to cancel.’” Noland Reply Aff. ¶ 27.

**WorldCom Response:** SWBT attempts to obscure its problem in returning jeopardies by referencing a WorldCom issue that occurred only in June and August and which had little or no relationship to jeopardies. It is critical to note that the WorldCom issue has not recurred since August. SWBT thus cannot explain the 3,663 jeopardies WorldCom received in October or the 3,975 jeopardies WorldCom received in November.

As to the June and August issue, WorldCom did transmit duplicates on approximately 80 orders in June and approximately 3,650 orders in the first three days of August, 2000. Most of the duplicate orders that WorldCom submitted were either rejected by SWBT or processed by SWBT with no effect on ultimate provisioning. (SWBT simply processed the same order twice.) SWBT did not need to send jeopardies on these orders and, to WorldCom's knowledge, did not do so. With respect to the remaining orders, SWBT indicates that it transmitted jeopardies of “please send supplemental order to cancel” on these orders. WorldCom received 287 jeopardies for this reason in August. Of these, only 13 were jeopardies on duplicate orders WorldCom had submitted. WorldCom has determined that in August SWBT also returned an additional 201 jeopardies on duplicate orders WorldCom had submitted. Thus, only 214 of the 4,281 jeopardies WorldCom received in August were jeopardies on duplicate orders. In September, only 337 of the 3,531 jeopardies WorldCom received were on duplicate orders from prior months. (On 105 of these, the reason given was “please send supp to cancel PON.”)

WorldCom's submission of duplicate PONs also cannot justify SWBT's belated return of jeopardies in August or in subsequent months. Even if WorldCom caused some of the jeopardies, SWBT should have returned those jeopardies on time or close to on time. But in August SWBT returned 1,223 jeopardies more than 60 days after the due date. McMillon & Lichtenberg Decl. ¶ 35. In November, SWBT still returned jeopardies an average of 20 days after the due date. WorldCom Reply Comments at 32. The fact that WorldCom did not finish transmitting cancellations on all of the duplicate orders until November, Noland Reply Aff. ¶ 30, has no impact on SWBT's transmission of jeopardies – which should have occurred before WorldCom submitted the cancellations.

SWBT's problem of returning jeopardies for illegitimate reasons also has nothing to do with WorldCom's submission of duplicate PONs. When WorldCom evaluated the number of jeopardies that SWBT was returning for illegitimate reasons, it did not include any jeopardies for “please send supplemental order to cancel” in that calculation. WorldCom's evaluation only included jeopardies such as “facilities not available” on UNE-P migration orders – jeopardies that on their face were inexplicable. Indeed, WorldCom's evaluation of the jeopardies it received

on duplicate orders reinforces its conclusion that SWBT is returning jeopardies for inexplicable reasons. The duplicate orders on which SWBT returned jeopardies in August were identified as jeopardies for 15 different reasons including “notification of new due date,” “invalid feature,” and “no access to end user prem” – reasons that have nothing to do with the orders being duplicates.

**SWBT Statement:** *“The only meetings [of the jeopardy subcommittee] that were not attended by the LSC and LOC representatives were those where the notifications were sent out on the day the meeting was held.” Noland Reply Aff. ¶ 32.*

**WorldCom Response:** SWBT’s LSC and LOC representatives did not attend several early meetings of the jeopardy subcommittee that were set up well in advance of the meetings. Attendance of the LSC and LOC representatives has improved recently, but the subject matter expert assigned to the committee has stated that SWBT is unable to dedicate sufficient time to the subcommittee due to other internal projects, even though SWBT committed to providing a dedicated expert to help resolve jeopardy issues. As a result, the progress of the subcommittee remains slow.

#### **Late Return of SOCs**

**SWBT Statement:** *“The LSC researched each of the PONs on the spreadsheets submitted by WorldCom and determined that the PONs submitted on the spreadsheets were not returned in a timely manner. However, through a combined effort involving the SOC Team and LSC representatives, the SOC*s are down to a nominal amount.” Noland Reply Aff. ¶ 35.

**WorldCom Response:** WorldCom agrees that after extensive work by WorldCom and SWBT, and continued WorldCom monitoring, SWBT has now reduced the number of outstanding SOCs. McMillon & Lichtenberg Decl. ¶¶ 45-47. But SWBT has done so largely by hiring more SWBT representatives and gradually training them. This manual fix is likely to break down if volumes again increase significantly – just as SWBT’s manual processes broke down in Texas with rapid increases in ordering volumes. *Id.* ¶ 47. CapRock, like WorldCom, experienced significant problems with late and missing SOCs when ordering volumes increased. Comments of McLeodUSA and CapRock at 30-31. SWBT offers no basis for assurance that its performance will be any better the next time order volumes increase significantly.

**SWBT Statement:** *“In light of the significant number of service representatives added to the LSC work force this year, DOJ expresses concern that CLEC orders from Kansas and Oklahoma which require manual intervention in the LSC will not be adequately processed, and will ‘suffer from the mistakes of poorly trained service representatives.’ Department of Justice Comments at 35-36. As noted above, there is no ‘state-specific’ treatment of CLEC orders by the LSC.” Noland Reply Aff. ¶ 11.*

**WorldCom Response:** Regardless of whether SWBT treats CLEC orders on a state-specific basis, the total volume of orders processed by SWBT will increase rapidly if CLECs begin transmitting a commercial volume of orders in Kansas and Oklahoma. The experience of WorldCom and CapRock in Texas shows that SWBT cannot easily handle rapid increases in

volume because it relies on too much manual processing. Existing representatives cannot respond adequately to such increases in volume; it takes time to hire new representatives, and the new representatives make many mistakes as a result of their inexperience.

### **Incorrect “C” Order Numbers**

**SWBT Statement:** *WorldCom complains that SWBT transmits incorrect C order numbers to CLECs on FOCs and SOC. Previously, WorldCom complained that it could not view orders that are over 30 days old in Provisioning Order Status. This turned out to be incorrect. Ham Reply Aff. ¶ 60.*

**WorldCom Response:** WorldCom’s prior complaint was based on its understanding of why it could not view order status information on particular orders. For months, SWBT did not clear up the issue and indeed seemed to agree that WorldCom’s understanding was correct. Only when SWBT eventually explained that CLECs could access order status information on orders that were more than 30 days old did it become clear that a different SWBT problem was preventing CLECs from accessing order status information in some instances – the fact that SWBT was transmitting incorrect C order information. SWBT does not deny that this is a problem.

**SWBT Statement:** *“SWBT’s systems did not consistently provide the new service provider’s C order number on the FOC/SOC. . . . As a result of this investigation, SWBT will work to tighten the requirements for FOC/SOC (within the parameters of the change management process) to ensure that the correct C order number (the C order number for the new service provider) will always be sent in CLEC-hopping situations.” Ham Reply Aff. ¶ 34.*

**WorldCom Response:** SWBT acknowledges returning incorrect C order numbers on CLEC-to-CLEC migrations but does not propose a definite solution, let alone say that it has implemented such a solution. This is important because CLEC-to-CLEC migrations are likely to rapidly increase, and CLECs need SWBT to transmit the correct C order number on such orders. McMillon & Lichtenberg Decl. ¶ 55. CLECs use the C order number to access order status information through an extremely cumbersome SWBT process. Without the C order number, CLECs would have to use a process that is even more cumbersome. Moreover, in addition to needing the C order number to “efficiently” access order status information, CLECs need the C order number in order to submit accurate trouble tickets. Finally, it is important to note that SWBT’s failure to transmit correct C order numbers appears to extend to orders other than CLEC-to-CLEC migrations. *Id.* ¶¶ 54-57.

### **Lost Dial Tone**

**SWBT Statement:** *“WorldCom agreed that \*\*\* (85%) of these purported trouble reports should be eliminated from further review as not related to the three-order process. . . . [I]t appears that WorldCom has made the unilateral and erroneous determination that the remaining \*\*\* customers lost dial tone as a result of the three order process.” Noland Reply Aff. ¶¶ 39-40.*

**WorldCom Response:** After extensive work by subject matter experts, the parties agreed that WorldCom submitted 1,208 trouble tickets for no dial tone between August 1 and September 5, 2000 – far more than the 249 originally claimed by SWBT. WorldCom did not “agree” that 85% of these trouble tickets were unrelated to the three-order process; rather WorldCom agreed that on 85% of orders SWBT provided an explanation for the trouble tickets that – if taken at face value – was unrelated to the three service order process. As for the remaining 15%, some of these WorldCom customers lost dial tone when SWBT erroneously disconnected them for non-payment of bills to SWBT at a time when they were SWBT customers – something that SWBT subject matter experts had informed WorldCom was caused by a flaw in the three-order process. Other trouble tickets appeared to be related to the three-order process based on their disposition codes. Still other trouble tickets that WorldCom believes resulted from the three-order process were submitted very shortly after migration and thus were very likely related to the three-order process. In any event, there is no doubt that the three-order process causes a loss of dial tone. In June and July, SWBT representatives explicitly told WorldCom that a number of WorldCom customers had lost dial tone as a result of the three-order process.

### **Invalid Rejects**

**SWBT Statement:** *“WorldCom, McMillon and Lichtenberg Decl. ¶¶ 58-61, complains that SWBT continues to reject orders for unacceptable reasons. These types of conversion issues were discussed during the Texas Three-Order Process Workshop and SWBT has implemented reports to address this type of concern.” Noland Reply Aff. ¶ 42.*

**WorldCom Response:** WorldCom detailed two types of rejects SWBT continues to return for invalid reasons. First, SWBT incorrectly rejects orders on the basis that the customers’ accounts are not eligible for conversion. McMillon & Lichtenberg Decl. ¶ 58. The reports discussed by SWBT have nothing to do with this type of reject. Second, SWBT incorrectly rejects supplemental orders submitted to correct orders placed in jeopardy status. *Id.* ¶ 60-61. SWBT potentially could use its new reports to ensure that if an order is placed in jeopardy status, none of the three service orders would be completed – which would prevent supplemental orders from being erroneously rejected. As of now, however, there is no basis for concluding that SWBT will use the reports to reduce invalid rejects.

## **II. LINE SPLITTING**

**SWBT Statement:** *SWBT acknowledges in its reply comments that it must provide all cross-connects necessary to accomplish line splitting using a CLEC splitter, whether the voice and data services are to be provided by one CLEC or two. See SWBT Reply Comments at 70-71, Chapman Reply Decl. ¶¶ 29, 33. SWBT disavows the language to the contrary in its generic Kansas interconnection agreement (“K2A”) and offers to amend that language. Chapman Reply Decl. ¶¶ 39-40. SWBT also recognizes and claims to honor its section 271 obligation to enable two CLECs to engage in line splitting using a UNE loop, UNE switching combined with transport, and a data CLEC splitter, without requiring the voice CLEC to collocate in addition to the data carrier. Chapman Reply Decl. ¶¶ 36, 38. SWBT maintains that the line splitting arrangement found sufficient in the grant of its Texas section 271 application met all of these characteristics. Chapman Reply Decl. ¶¶ 29, 39.*

**WorldCom Response:** SWBT's acknowledgments of these basic section 271 obligations with regard to line splitting are a step in the right direction. Having been called to task by WorldCom for inserting discriminatory and anticompetitive language in the K2A, SWBT now disavows that language and offers to insert new terms. However, the Commission should not endorse the specific proposed amendment to the K2A made in SWBT's reply filing. Not only is SWBT's timing too late, but also the appropriate forum for a change to the language of the K2A is of course the Kansas Corporation Commission, where the parties would negotiate language changes needed to remove ambiguities in SWBT's proposal that could undermine SWBT's representations in its reply filing here.<sup>1</sup> The Commission should make clear that the commitments belatedly made in SWBT's reply declaration are necessary for compliance with section 271, and must be provided on nondiscriminatory terms and conditions.

Despite SWBT's positive steps in recognizing its obligations, SWBT still fails to carry its burden of proving that it can *in fact* process orders for UNE-P line splitting between two CLECs today at all, let alone that the terms and prices for this offer are nondiscriminatory. Critically, SWBT nowhere explains how competitors can place an order to migrate to a voice CLEC the voice circuit of an existing line sharing arrangement where DSL is provided by a data LEC using its own splitter. (This is another issue that would have to be addressed in any amendment to the K2A). Such a conversion maintains the physical circuit intact and thus is strictly analogous to the migration of a voice-only circuit to UNE-P. Nor has it explained what fees would be associated with this migration and configuration. As indicated below, SWBT's reply does not disavow an intent to assess unjustified non-recurring costs for combining UNEs that are in fact already combined.

The reply comments of the Kansas and Oklahoma commissions confirm that pricing for line splitting is still generally unclear. The Oklahoma Commission, for example, while affirming that SWBT has current line splitting obligations, stated that it considers the interim rate for line splitting to be zero, and indicated that there is no current pricing docket open to address any change to the line splitting rates. See OK Reply Comments at 17. WorldCom anticipates that SWBT will construe this to mean that there is no current recurring charge for the high frequency portion of the loop, but even if this is correct, this would at best leave it unclear what the prices are for other elements and services associated with line sharing. The Kansas Commission,

---

<sup>1</sup>Rather than referring to this Commission's Texas 271 Order, any amendment to the K2A should incorporate specifically the critical features of line splitting recognized in the Chapman reply declaration, including that a voice CLEC need not collocate in order to obtain UNEs to pick up the voice circuit at a data CLEC's collocation. Any amendment must not only spell out these details and resolve other ambiguities, such as SWBT's proposal to permit CLECs to order "available" cross-connects, it must also address areas on which SWBT has remained silent. In addition, it is inappropriate to adopt language that forecloses CLEC access to the ILEC splitter for line splitting, particularly in advance of the Kansas Commission's substantive consideration of this issue. WorldCom urges this Commission as well as state regulators in various states to follow the lead of the New York Commission and of a Texas arbitrator to require access to the ILEC splitter, and the Commission should not foreclose this possibility.

meanwhile, has reiterated the unsettled status of line splitting rates and conditions in that state, noting that it has been requested to address line splitting, along with other issues relating to DSL, in a docket to be opened on February 12, 2001, with no fixed date for resolution. KS Reply Comments at 4.

In addition to these outstanding pricing issues, SWBT fails to prove that it is actually able to provide the critical line splitting configurations that it now claims to offer. For example, while SWBT indicates that a voice CLEC can order UNE switching terminated to the collocation cage of a data provider, Chapman Reply Decl. ¶ 36, it provides no evidence – no documentation, commercial experience or testing by any entity in any state – that its existing business rules and OSS would recognize such an order as valid, since it requests connection of a UNE purchased by one CLEC to the collocation of a different CLEC. Indeed, in responding to IP Communications Comments on line splitting, SWBT claims that it would need to develop additional OSS to address line splitting arrangements involving cooperation between a voice CLEC and data CLEC. Chapman Reply Decl. ¶ 56. Productive collaborative sessions are currently underway in New York to resolve OSS issues for line splitting using both ILEC and CLEC splitters. This Commission should not mandate (at least at this time) OSS details that could interfere with progress being made in state-supervised collaboratives, but it should recognize that SWBT has not demonstrated any current ability to provide line splitting, under any set of rules.

Until these critical operational and pricing questions about line splitting are resolved, SWBT has not satisfied its obligations under section 271 to show that it is providing access to unbundled elements relating to line splitting. WorldCom intends to compete vigorously using line splitting, but cannot even assess the prospects for line splitting in Kansas and Oklahoma because SWBT has not set forth the relevant pricing and operational details, let alone proven that it is ready, willing and able to actually provide access needed for line splitting.

**SWBT Statement:** *In provisioning a line splitting order, SWBT reuses the loop already used to provide a customer's voice service, unless that loop is not DSL capable. Chapman Reply Decl. ¶ 38. But SWBT suggests that CLECs must order line splitting by placing multiple orders for separate UNEs, and must use these separate elements instead of those already combined to provide the existing voice service. See id. ¶¶ 29 (discussing purchase of "separate elements"), 38 (discussing purchase of unbundled switching combined with transport to "replace" its UNE-P, and discussing reuse of loop without indicating reuse of switch port).*

**WorldCom Response:** When CLECs order line splitting, in addition to reusing the existing loop, as this Commission requires (TX Order ¶ 325), SWBT must reuse all other existing elements already combined to provide a customer's voice service, including any cross-connects that are already in place, unless specifically requested not to do so. See NY Order ¶ 233 (to comply with section 271, ILECs must provide competitors with combinations of elements that are already assembled in the network); 47 C.F.R. § 51.315(b) (ILECs shall not separate existing combinations unless requested by the CLEC). SWBT has not stated that it is committed to do so (much less proven that it will do so), and its discussion of ordering separate elements suggests that it might require ordering of individual, substitute elements and thus assess charges for provisioning new cross-connects that duplicate connections already in existence as part of the voice circuit. SWBT may also create unnecessary costs for the creation and processing of many

separate orders. This would be clearly discriminatory and unreasonable and contrary to the Commission's Texas 271 Order requirement that SWBT "permit competing carriers to engage in line splitting over the UNE-P." TX Order ¶ 325 (emphasis added).

### III. "TRACK A" IN KANSAS

**SWBT Statement:** *SWBT states that Sprint's activities in marketing and billing for its facilities-based residential service are sufficient in themselves to qualify SWBT for Track A in Kansas. See SWBT Reply Br. 72. In addition, SWBT speculates that two other carriers -- Birch and Ionex -- are converting residential resale customers to facilities-based customers so as to qualify SWBT for Track A. See id. at 73.*

**WorldCom Response:** Under SWBT's reading of Commission precedent, if one CLEC has one facilities-based residential customer, that fact would be sufficient to qualify the BOC for Track A status under section 271. Yet prior section 271 decisions make clear that a "de minimis" level of competition will not be sufficient to sustain a Track A application, due to the need for the existence of "an actual commercial alternative to the BOC." MI Order ¶ 77.

Here, depending on how its customers are counted, Sprint had at most 184 residential, facilities-based customers in Kansas as of the date of SWBT's section 271 application, and was generally serving only second lines. See Sprint Br. 9.<sup>2</sup> This level of service is far below previous levels of competition found adequate to meet the requirements of Track A, and is not close to constituting an actual commercial alternative to SWBT. See WorldCom Reply Br. 17-18. Moreover, permitting SWBT to proceed under Track A on these facts would significantly undermine Congress' intent to foster facilities-based residential competition. See id. 15-16.

Recognizing the importance of Track A to weed out applications in which there is no effective facilities-based residential competition, the Arkansas Public Service Commission recently concluded that SWBT has not met Track A in that state.<sup>3</sup> In Arkansas, the sole facilities-based residential provider, ALLTEL, had pulled out of the Arkansas market based on the excessive UNE rates. Ark. Track A Order at 10. For purposes of Track A's "de minimis" test, there can be no meaningful distinction between the trivial level of facilities-based residential competition in Arkansas (where ALLTEL will continue to serve its existing customers, see Ark. Track A Order at 11), and in Kansas, where there are at most less than 200 facilities-based residential customers served by Sprint.

---

<sup>2</sup>All customers had signed up during Sprint's testing period, and only 56 had been billed as of the date of SWBT's application. Also, the customers were not relying on Sprint as their primary service provider. See Sprint Br. 8-10. Accordingly, crediting Sprint with 184 residential facilities-based customers is quite generous.


<sup>3</sup>In re: Application of SWBT for Authorization to Provide In-Region InterLATA Services Pursuant to Section 271 of the Telecommunications Act of 1996 and for the Approval of the Arkansas Interconnection Agreement (Arkansas PSC Docket No. 00-211-U) (Dec. 21, 2000) ("Ark. Track A Order").

In addition, the Commission should closely scrutinize SWBT's new claim that Birch and Ionex are converting residential resale customers to facilities-based customers. SWBT bases this assertion on data showing that Birch and Ionex have reduced the number of resale customers they serve while increasing the number of facilities-based customers. See SWBT Reply Br. 73. Yet, in its initial filing SWBT did not argue that Birch or Ionex served residential customers on a resale basis. Moreover, neither Birch nor Ionex indicates on its website that it serves residential customers.<sup>4</sup> Indeed, SWBT itself states that it is "still investigating" the number of facilities-based lines used to provide service to residential customers of these two companies, and there is no evidence at all that either carrier is serving residential customers "predominantly" over its own facilities. SWBT Reply Br. 73 n.46. Before accepting SWBT's tenuous arguments as to Birch and Ionex customers -- and especially in light of the demonstrated defects in SWBT's claims for competition based on the E911 database -- the Commission should independently investigate the state of residential, facilities-based competition in Kansas.

\* \* \* \* \*

In accordance with section 1.1206 of the Commission's rules, 47 C.F.R. § 1.1206, an original and one copy of this Notice are being filed with your office.

Sincerely,



Keith L. Seat

cc: Jordan Goldstein, Kyle Dixon, Anna Gomez, Rebecca Beynon, Deena Shetler, Dorothy Attwood, Glenn Reynolds, Jane Jackson, Brent Olson, John Stanley, Richard Kwiatkowski, Rhonda Lien, Lloyd Collier, Ben Childers, Aaron Goldschmidt, Trent Harkrader, Tony Dale, Tom Navin, Aaron Goldberger, Rich Lerner, Adam Candeub, Gary Remondino, Layla Seirafi, DOJ, Eva Power, KCC, Joyce Davidson, OCC

---

<sup>4</sup>See [www.birch.com](http://www.birch.com) (downloaded 12/22/00); [www.ionextelecom.com/about/index.html](http://www.ionextelecom.com/about/index.html) (downloaded 12/22/00).